

CHISHOLM BUSINESS SUBSIDY CRITERIA

The City will focus its business subsidy assistance to businesses which shall demonstrate a clear and ongoing commitment to the community by providing living wage jobs to their employees. The City will focus its business subsidy assistance only to businesses which agree to comply with annual business subsidy reporting requirements as required by Job Opportunity Building Zone (JOBZ) statute M.S. ?? 469.310 - 469.320; and/or as required by the Business Subsidy statute M.S. ?? 116J.993 – 116J.995.

A. DEFINITIONS

“Authorized Business Subsidy Signatory” means the Mayor and the City Clerk of the City Council, who are authorized by this Policy to execute business subsidy agreements on behalf of the City of Chisholm.

“JOBZ Business Subsidy” means tax exemptions or tax credits available to a qualified business located in a job zone under the Job Opportunity Building Zone (JOBZ) statute M.S. §§ 469.310 - 469.320;

“Business Subsidy” means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business, and as defined by the Business Subsidy statute M.S. §§ 116J.993 - 116J.995. Business subsidy does not include the following:

1. assistance of less than \$25,000.
2. assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of businesses, size, location or similar general criteria;
3. public improvements to buildings or lands owned by the City that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;
4. property polluted by contaminants being redeveloped as defined in M.S. § 116J.552, subd. 3.
5. assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance to designated historic preservation sites or districts, provided that the assistance is equal to or less than 50% of the total cost of the development;
6. assistance to provide job readiness and training services;
7. assistance for housing;
8. assistance for pollution control or abatement, including assistance from a TIF hazardous substances subdistrict;
9. assistance for energy conservation;
10. tax reductions resulting from conformity with federal tax law;
11. workers compensation and unemployment compensation;
12. benefits derived from regulation;

13. indirect benefits derived from assistance to educational institutions;
14. funds from bonds allocated under M.S., Chapter 47A refunding bonds and 501(c)(3) bonds;
15. assistance for collaboration between a Minnesota higher education institution and a business;
16. assistance from a tax increment financing soils condition district as defined under M.S.469.174, subd.19;
17. redevelopment when the Recipients or Qualified Business' investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current years estimated market value;
18. general changes in tax increment financing law and other general tax law changes of a principally technical nature;
19. federal assistance until the assistance has been repaid to and reinvested by the local governmental unit;
20. funds from dock or wharf bonds issued by a seaway port authority;
21. business loans or loan guarantees of \$75,000 or less; and
22. federal loan funds provided through the U.S. Economic Development Administration.

"Business Subsidy Report" means the annual report submitted by the LGA required to comply with M.S. § 116J.994 Subd. 7. (b).

"Criteria" means the equitably applied, uniform standards by which the Economic Development Agency and /or the City bases its decision to award any business subsidy to a private business or development project establishing a business and creating jobs in the City.

"DEED" means Minnesota Department of Employment and Economic Development.

"Economic Development Agent" means the city department, local or regional economic development agency or other authorized entity that is empowered to solicit, negotiate and form business subsidy agreements on behalf of the City. The Economic Development Agent for the City shall be the Chisholm Economic Development Authority (CEDA), hereinafter "Agent". Subject to final approval by the City Council.

"Living Wage Job" shall mean a job which pays wages and health benefits that total at least the rate of 110% of the current poverty level for a family of four.

"Local Governmental Unit" hereinafter LGA, means the statutory or home rule charter city, county, town, iron range resources and rehabilitation agency, regional development commission;

"Qualified Business" means a person that carries on a trade or business at a place of business located within a Job Opportunity Building Zone as referenced in M.S. § 469.310 Subd. 11; and complies with the reporting requirements specified by M.S. § 469.313 Subd. 2. (5); and shall comply with the criteria in Section II.C. of this agreement; and

shall also mean "Recipient" as defined by Business Subsidy law. A qualified business shall not include a retail business, a low-wage service business, an agricultural production business, or a business that pays less than the living wage defined in this agreement.

"Recipient" mean any business entity that receives a business subsidy as defined by M.S. § 116J.993, and that has signed a Business Subsidy Agreement with a city.

"Relocating Business" A business relocating from another Minnesota non-JOB Zone location.

"Relocation Agreement" means a binding written agreement between a relocating qualified business and the commissioner of DEED pledging that the qualified business will either: (a) increase full-time for full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, or (b) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

"Subzone" means the parcel or parcel of land designated by the Commissioner of Employment and Economic Development within a Job Opportunity Building Zone within the boundaries of Hibbing to receive certain tax credits and exemptions specified under M.S. § 469.310-469.320.

"Zone" means a Job Opportunity Building Zone or an Agricultural Processing Facility Zone designated by the commissioner of Employment and Economic Development under M.S. § 469.314.

B. PROJECT REVIEW AND EVALUATION POLICY

1. The City recognizes that the creation of living wage jobs is a desirable goal which benefits the community. Nevertheless, not all projects assisted with subsidies derive their public purposes and importance solely by virtue of job creation. In addition, the imposition of high job creation requirements and high wage level requirements may be unrealistic and counter-productive in the face of larger economic forces influencing, and the financial and competitive circumstances of an individual business. In determining the requirements for a project under consideration for a business subsidy, the determination of the number of jobs to be created and the wage levels therefor will be guided by the following principles and criteria:
 - a. The evaluation of a project will take into consideration the project's importance in and benefit to the community from all perspectives, including created or retained jobs.

- b. If a particular project does not involve the creation of jobs, but is nonetheless found to be worthy of support and subsidy, assistance may be approved without any specific job or wage goals if permitted by applicable law.
 - c. In cases where the objective is the retention of existing jobs, the recipient of the subsidy will be required to provide evidence which demonstrates that the loss of those jobs is imminent.
 - d. The setting of wage and job goals will be informed by (1) prevailing wage rates, (2) local economic conditions, (3) external economic forces over which neither the City nor the recipient of the subsidy has control, (4) the financial resources of the recipient, and (5) the competitive environment in which the recipient's business exists. Wage and job goals must require the goals to be reached within two (2) years.
2. Because it is not possible to anticipate all the needs and requirements of every type of project and the ever-changing needs of the community and in order to retain the flexibility necessary to respond to all proposed projects, the City retains the right to approve projects and business subsidies which may vary from the principles and criteria set forth herein. The reason for any deviation from the principles set forth herein will be documented in writing by the City and will be submitted to the Department of Employment and Economic Development ("DEED") in accordance with the Act.

C. PROJECT REVIEW AND EVALUATION PROCEDURE

The city will consider one or more of the criteria listed in Section D. below in determining whether to provide financial or other assistance to a project as a business subsidy. In order for a recipient/project to receive financial or other assistance as a business subsidy, it must comply with all the criteria listed in Section E., below. In applying the criteria to a specific project, the following will apply:

- 1. The City may consider the requirements of any other business subsidy received, or to be received, from a grantor other than the City.
- 2. If the business subsidy is a guaranty, the amount of the business subsidy may be valued at the principal amount of the guaranteed payment obligation.

3. If the business subsidy is real or personal property, the amount of the subsidy will be the fair market value of the property as determined by the City.
4. If the business subsidy is received over time, the City may value the subsidy at its present value using a discount rate equal to an interest rate which the City determines is fair and reasonable under the circumstances.
5. If a business subsidy exceeds \$100,000, or involves JOBZ benefits, a public hearing must be held. A public notice must be printed in a local newspaper and include: the time and place of the hearing, and where printed information on the business subsidy may be obtained.

As used herein "benefit date" means the date the business subsidy is received. If the business subsidy involves the purchase, lease, or donation of physical equipment, then the benefit date occurs when the recipient puts the equipment into service. If the business subsidy is for improvements to the property, then the benefit date refers to the earliest date of either: when the improvements are finished for the entire project, or when a business occupies the property.

D. PROJECT REVIEW AND EVALUATION CRITERIA

The project review and evaluation criteria are the following:

1. Jobs and Wages

- a. **New Jobs.** The minimum net number of direct full-time equivalent jobs to be created or retained by the proposed project for a period of at least two (2) years from the estimated benefit date.
- b. **Payroll.** The minimum annual net payroll (including employer contributions for health benefits) to be generated at the end of the third anniversary date of the estimated benefit date.

2. Tax Base

- a. **Increase in Tax Base.** The net increase in property taxes estimated to be generated by the project in the first full year of operation.

3. Land Use

- a. **Compliance with Comprehensive or Other Plans.** Whether, apart from any needed services to the community described in Section 6. below, the project is more compatible with the comprehensive plan than other permitted uses for the property. For example, the project may involve a "clean" industry such as a technology or service business which is preferred over other permitted uses.
- b. **Marginal Property.** Whether the project is located on property which needs but is not likely to be developed or redeveloped because of blight or other adverse conditions of the property. For example, property may be so blighted that the cost of making land ready for redevelopment exceeds the property's fair market value.
- c. **Design and/or Other Amenities.** Whether, as a result of the business subsidy, the project will include design and/or amenity features not otherwise required by law. For example, the project may, at the request of the City, include landscaping, open space, public trails, employee work out facilities or day care facilities which serve a public purpose but are not required by law.

4. Impact on Existing and Future Public Investment

- a. **Utilization of Existing Infrastructure Investment.** Whether and to what extent (1) the project will utilize existing public infrastructure capacity and (2) the project will require additional publicly funded infrastructure investments.
- b. **Direct Monetary Return on Public Investment.** Arrangements made or to be made for the City to receive a direct monetary return on its investment in the project. For example, the business subsidy may be in the form of an interest bearing loan or may involve a project sharing arrangement.

5. Economic Development

- a. **Leveraged Funds.** For every dollar of business subsidy to be provided for the project, the minimum amount of private funds which will be applied towards the capital cost of the project.
- b. **Spin Off Development.** The dollar amount of non-subsidized development the project is expected to generate in the surrounding area and the need for and likelihood of such spin off development.
- c. **Growth Potential.** Based on recipient's market studies and plans for expansion, whether and to what extent the project is expected within five (5) years of its completion, be expanded to produce a net increase of full-time equivalent jobs and of payroll, over and above the minimum net increase in jobs and payroll described in Section 1 above.

6. Quality of Life

- a. **Community Services.** Whether the project will provide services in the community and the need for such services. For example, the project may provide health services, retail convenience stores such as a nearby grocery store, or social services needed in the community.

7. Other

- a. **Other Factors.** Depending on the nature of the project, such other factors as the City may deem relevant in evaluating the project and the business subsidy proposed for it.

E. MINIMUM REQUIREMENTS FOR ALL PROJECTS

All recipients/projects must comply with all the following criteria in order to receive assistance as a business subsidy from the City:

- ** 1** **Wage Policy.** If the project results in the creation of new jobs, the wage for each part-time and full-time job created must be (1) within two (2) years of the date assistance is received (as defined in the Act), and (2) at least equal to the federal minimum or such greater amount as the City may require for a specific project.
- 3** **Economic Feasibility.** The recipient must demonstrate to the satisfaction of the City that it has adequate financing for the project and that the project will be completed in a timely fashion.
- ** 4** **Compliance with Act.** The business subsidy from the City must satisfy all requirements of the Act.

**** These are the only provisions in this business subsidy criteria document which are required by law.**

F. JOBZ BUSINESS SUBSIDY REQUIREMENTS

1. Any time the *City* provides a business subsidy to a Qualified Business or Recipient, that business is subject to the wage goals, job goals and other criteria set forth in this policy. In the event of a conflict between the requirements of the Business Subsidy statute M.S. §§ 116J.993 - 116J.995 and the JOBZ statute M.S. §§ 469.310 - 469.320, the JOBZ statute shall control.
2. The recipient, in the case of a quantifiable non-JOBZ business subsidy, shall create and retain at least one full-time living wage job and which provides a basic health insurance plan by the employer, for each \$50,000 of business subsidy received. These jobs shall be created not later than _____ (Specify date.)
3. The qualified business in the case of a currently non-quantifiable JOBZ business subsidy, must create and retain for the period of the Job Zone duration or until December 31, 2013, whichever is shorter, at least _____ (#) of jobs that pay a living wage; and which provide employer paid basic health insurance. These jobs shall be created not later than _____ (Specify date.)
4. The *City* may deviate from wage and job criteria in Section II. By documenting the reason in writing for the deviation and attaching a copy of this reason to the next annual Business Subsidy Report submitted to DEED.
5. The *City* shall require all businesses receiving a business subsidy to comply with the following:
 - a. Attend a properly noticed public hearing shall be held by the *City* as provided by M.S. § 116J.994. The purpose of the hearing shall be held to identify define the criteria that the qualified business or recipient will meet in order to be eligible to receive a business subsidy or become a qualified business for purposes of the JOBZ statute. The hearing shall specify the subsidy provided, public purpose(s) that shall be achieved by offering the subsidy, and shall specify the measurable, specific, and tangible goals committed to by the qualified business. As provided by M.S. 116J.994, Subd. 5., a public notice shall be published in print and if possible, on the internet, at least 10 days prior to the hearing, identifying the location, date time and place of the hearing; and providing information about the business subsidy proposed, including a summary of the terms of the subsidy.
 - b. If the business is qualified to receive JOBZ tax benefits, that business shall agree to continue to operations in the jurisdiction where the subsidy is used (the subzone) for the duration of the job zone term.
 - c. If the qualified business or recipient is a relocating business under the definition in this agreement, the business shall be required to enter into a binding written "Relocation Agreement between the qualified business and the commissioner of DEED pledging that the qualified relocating business will either:
 - (1) increase full-time for full-time equivalent employment in the first full year of operation within the job opportunity building zone by at least 20 percent, *or*
 - (2) make a capital investment on the property equivalent to 10% of the gross revenues of operation that was relocated in the immediately

preceding taxable year; and provides for repayment of all tax benefits if the requirements of (a) or (b) are not met.

G. REQUIREMENTS AFTER APPROVAL OF PROJECTS

1. Subsidy Agreement. The City and the recipient must enter into a written agreement before the City grants the business subsidy.
2. Monitoring and Annual Reports.
 - a. The business must complete a report on forms developed by the DEED and submit those forms to the City by February 1 each year.
 - b. The City must submit a business' report to DEED by March 1 of each year. If a business fails to submit its report to the City, the City must mail a warning to the business. After 14 days, the City must impose a fine of \$100.00 per day until it receives the report, with a maximum fine of \$1000.00.
 - c. The City must submit its own report to the DEED by April 1 of each year, which will include a list of those businesses that did not complete reports, and a list of those businesses that have not met wage and job goals within two years, and what the City is doing in response.

Adopted by: City of Chisholm City Council

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